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Serial No.: 10/586,723
Filing Date: 7-17-2006
Group Art Unit: 3725

REMARKS

The Office action has been carefully considered and the application has been amended accordingly.

The original drawing is being replaced by a Replacement Sheet. The only change is the addition of an arrow and the numeral 10, in FIG. 1.

Claims 1-7 are present in the application.

Claims 1-7 stand rejected under 35 U.S.C. 112, first paragraph, and also the second paragraph. Applicant respectfully submits that both of these rejections are in error. The present invention, as explained in the showings of FIGS. 2-5, is an improvement over the prior art showing of FIG. 1. Comparing FIG. 1 and FIG. 2, it is seen that the flange portion 16 and the peripheral portion 22 of end panel 20 correspond exactly to the flange portion 34 and the peripheral portion 38 of end panel 36. Both closures start out in the same way. Note that the circumferential edges of peripheral portions 22 and 38 terminate adjacent to the upwardly extending wall of the respective ring members 14 and 30. Thus, both structures are the same. End panel 20 is peelable from flange portion 16 and end panel 36 is likewise peelable from flange portion 34. The end panels are described as being of foil, or film, or thin plastic (which can be heat sealed to a metal or plastic flange, and may also be treated

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with a thin layer or film of adhesive 42 (FIG. @) as explained at page 3, lines 16-25.

As defined in parent claim 1, the invention is characterized by the step of displacing the flange portion (34) from the position shown in FIG. 2 to the position shown in FIG. 3. The essence of applicant's invention is apparent from the showing in FIG. 5 and the explanation at page 4, lines 16-24. Upon upward bulging of end panel 36 during a retort operation, the peripheral portion 38 and the flange portion 34 are retained in sheer, rather than peel, to protect against inadvertent separation of the end panel from the ring member. Compare this to the prior art, as shown in FIG. 1, wherein upon upward bulging of the end panel 20 during a retort operation, the end panel will begin to peel from the flange portion 16 and cause failure of the seal.

The Examiner has properly withdrawn a previous rejection of claims 1-3 and 6 under 35 U.S.C. 102(b) as being anticipated by Hirsch et al. because, as is shown in FIGS. 8 and 9, the sealing member (end panel) 14 has its peripheral portion clamped to a flange of the container.

The rejection of claims 1-7 under 35 U.S.C. 103 (a) as being unpatentable over Hirsch et al. in view of Admitted Prior Art is clearly in error and not in accord with the provisions of Section 103. The Examiner can not properly

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destroy the teachings of Hirsch et al. by using hindsight reconstruction in an effort to meet the limitations of applicant's claims. One skilled in the art need not rely upon modifying the teachings of Hirsch et al. to provide a peelable end panel; applicant's invention starts at that point, as is shown in applicant's FIG. 1. Neither the prior art, nor Hirsch et al., teach or suggest applicant's claimed invention of displacing a flange portion for maintaining the end panel in sheer with said flange portion and also peelable therefrom.

Accordingly, in view of the foregoing amendments and remarks, reconsideration of the application is requested and allowance of claims 1-7 is courteously solicited.

Applicant's attorney would welcome a telephone call if needed to facilitate further prosecution of the application.

Respectfully submitted,

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